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ART UNIT	PAPER NUMBER
2167	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/004,988	CULP ET AL.
Office Action Summary	Examiner	Art Unit	
	Kuen S Lu	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 September 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-37</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-37</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

DETAILED ACTION

Response to Amendments

1. The Action is responsive to the Applicant's Amendments, filed on September 7,

2004.

2. The Applicant's amendments made to claims 10-11, 24-25 and 31 are considered

and addressed in the Office Action for Final Rejection, as described below.

3. As for the Applicant's Remarks on claim rejections, filed on September 7, 2004, has

been fully considered by the Examiner, please see discussion in the section Response

to Arguments, following the Office Action for Final Rejection. Please note in this Office

Action for Final Rejection the Examiner maintains the same position as what was set

forth in the Office Action for Non-Final Rejection, dated April 1, 2004.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a
person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived
by the manner in which the invention was made.

5. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Amaratunga et al. (U.S. Publication 2003/0061091, hereafter "Amaratunga") and in view

of Ehlers et al. (U.S. Patent 6,216,956, hereafter "Ehlers").

As per Claims 1 and 15, Amaratunga teaches the following:

"A system for remote monitoring and controlling of energy consumption of a facility,
comprising: a processor" at Fig. 1, element 20 and Page 4, [0030], lines 16-20 where
the processing module of the energy consumption prediction system comprises a
processor;

"a database coupled to the processor, the database operable to receive and store
energy consumption data associated with the facility" at Page 7, [0048], lines 1-4 where
a historical database is the to collect and store data from meters, devices and sensors
at the energy consumption systems or consumption site;

"an analysis engine executable by the processor, the analysis engine operable to
evaluate the energy consumption data" at Page 4, [0029], lines 1-4 where a TEUP
(Total Energy Use Profile) is developed for analyzing and evaluating the energy
amounts and providing other energy use information, and "determine whether energy
consumption operating parameters require modification to increase efficiency" at Page
5, [0037], lines 13-20 where amount of energy to produce pollution is utilized to predict if
energy consumption system is operating efficiently and at Page 7, [0047], lines 24-28
where a feedback control capability is built for attempting to bring the energy
consumption system to a more efficient operating state.

"a control engine operable to initiate operating parameter modification of an energy
consumption system of the facility in response to a desired operating parameter
modification" at Page 7, [0047], lines 24-28 where a feedback control capability is built
for attempting to bring the energy consumption system to a more efficient operating
state.

Amaratunga does not specifically teach control or other engines "residing in the memory and executable by the processor" or "a memory unit coupled to the processor".

However, Ehlers teaches a memory unit coupled to the processor at Fig. 1, elements 20-30 and col. 7, lines 1-3 and 16-17 where an energy management system includes processor and memory next to each other, and data stored in the memory is accessed and processed by the processor.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Ehlers' reference into Amaratunga's by implementing the functions which require processing on the part of the processor, such as environmental condition control, price and energy consumption control, on the memory unit such that they can be processed without invoking disk i/o and memory loading/swapping because by doing so the processing system would have performed more efficiently.

As per claims 2, 16 and 29, Amaratunga teaches "the database receives the energy consumption data via an Internet communications network" at Fig. 1, elements, 20 and 31s, and Page 4, [0027], lines 25-26 by describing the communication link connecting to the processing module includes internet where the database is built up by the processing module at Page 7, [0048], lines 1-4 .

As per claims 3 and 17, Amaratunga teaches "the database receive the energy consumption data from a data collector disposed at the facility" at Fig. 1, elements 29

and 100, and Page 4, [0027] by showing the data collection unit is located inside of the energy consumption site.

As per claim 4 and 36, Amaratunga teaches "database further receives and stores environmental data" at Page 4, [0029] where TEUP receives and stores the environmental data, and "wherein the analysis engine is further operable to determine whether operating parameter modification is required using the environmental data" at Page 7, [0047] by identifying the likely cause for the variance in energy consumption and comparing variables with data from the historical database.

As per claim 5, Amaratunga teaches "the environmental data comprises environmental forecast information, and wherein the analysis engine is operable to determine whether operating parameter modification is required for the energy consumption system using the environmental forecast information" at Page 6, [0042] where the energy consumption prediction system utilizes factors such as nature of the energy, energy-provider controlling factors, energy consumption site particulars, details of energy consumption system, and manufacturing or operating process variables, and at Page 7, [0047], lines 24-28 where a feedback control capability is built for attempting to bring the energy consumption system to a more efficient operating state.

As per claims 6 and 19, Amaratunga teaches an energy consumption system at the Abstract.

Amaratunga does not specifically teach ""a reporting engine residing in the memory

and executable by the processor, the reporting engine operable to generate an energy

consumption report based on the energy consumption data".

However, Ehlers teaches an energy consumption management system having

capability of reporting detailed energy consumption data as a function of time at col. 3,

lines 31-37 and a memory unit coupled to the processor at Fig. 1, elements 20-30 and

col. 7, lines 1-3 and 16-17 where an energy management system includes processor

and memory next to each other, and data stored in the memory is accessed and

processed by the processor.

It would have been obvious to one having ordinary skill in the art at the time of the

applicant's invention was made to combine Ehlers' reference into Amaratunga's by

implementing the reporting function on the memory because by doing so the energy

consumption system would have been able to deliver the necessary status and control

to the consumption premise in a timely and reliable fashion for obtaining desired

operating results. Furthermore, the function requires processing on the part of the

processor and its residence on the memory would have made the function executed

without invoking disk i/o and memory loading/swapping such that the processing system

would have performed more efficiently.

As per claims 7 and 20, Amaratunga teaches "a validation engine operable to

validate the energy consumption data" at Page 5, [0037], lines 8-20 by determining if

the energy consumption system is operating efficiently and energy consumption amount

is consistent with what benchmarked.

Amaratunga does not specifically teach validation engine "residing in the memory and

executable by the processor.

However, Ehlers teaches a memory unit coupled to the processor at Fig. 1, elements

20-30 and col. 7, lines 1-3 and 16-17 where an energy management system includes

processor and memory next to each other, and data stored in the memory is accessed

and processed by the processor.

It would have been obvious to one having ordinary skill in the art at the time of the

applicant's invention was made to combine Ehlers' reference into Amaratunga's by

implementing the validation engine on the memory because the engine requires

processing on the part of the processor and its residence on the memory would have

made the function executed without invoking disk i/o and memory loading/swapping

such that the processing system would have performed more efficiently.

As per claim 8, Amaratunga teaches "the validation engine is operable to validate the

energy consumption data using environmental data" at Page 6, [0042] where the energy

consumption prediction system identifies the likely cause of energy consumption

variance by utilizing factors such as nature of the energy, energy-provider controlling

factors, energy consumption site particulars, details of energy consumption system, and

manufacturing or operating process variables.

As per claims 9 and 21, Amaratunga teaches "the validation engine is operable to validate the energy consumption data using historical energy consumption data associated with the facility" at Page 5, [0039], lines 1-2 where data processing module links energy provider database to evaluate the total energy use profile and at Page 7, [0047], lines 24-28 by building up historical database.

As per claims 10, 24 and 31, Amaratunga teaches "control engine is further operable to control a variable rate of energy consumption data collection at the facility" at Page 7, [0047], lines 24-28 where a feedback control capability is built for attempting to bring the energy consumption system to a more efficient operating state.

As per claims 11 and 25, Amaratunga teaches "the control engine is further operable to modify a variable rate of energy consumption data collection at the facility in response to a re-determined sequence of events" at Page 2, [0017], lines 11-17 by using transfer function for initial energy loading term or periodic update of collecting data of energy consumption at the site.

As per claim 12, Amaratunga teaches "comprising a plurality of data collectors disposed at the facility and operable to acquire energy consumption information associated with the facility" at Fig. 1, elements 140s, 142s, 150s and 152s, and Page 3, [0026], lines 1-2 where the elements are for monitoring, measuring and recording the energy consumption amounts.

As per claims 13, 26 and 30, Ehlers further teaches "data collectors are coupled

together, and wherein one of the data collectors is operable to transmit the respective

acquired energy consumption information to another data collector" at Fig. 4, elements

21-22 and col. 8, lines 29-36 where data collection storage functions connected to each

other and multiplexed to data collection units.

As per claim 14, Ehlers further teaches "the one data collector is operable to transmit

the respective acquired energy consumption information in response to a predetermined

event" at col. 9, lines 58-63 where data are provided to data collection function at

regular interval.

As per claim 18, Amaratunga teaches "receiving the environmental data comprises

receiving environmental forecast information, and wherein determining comprises

determining whether the operating parameter of the energy consumption system of the

facility requires modification using the environmental forecast information" at Page 6,

[0042] where the energy consumption prediction system utilizes factors such as energy

consumption site particulars, and "wherein the analysis engine is further operable to

determine whether operating parameter modification is required using the

environmental data" at Page 7, [0047] by identifying the likely cause for the variance in

energy consumption and comparing variables with data from the historical.

As per claim 22, Amaratunga teaches "determining whether a value of the energy consumption data remains substantially constant for a predetermined time period and validating the energy consumption data if the value remains substantially constant for the predetermined time period" at Page 7, [0047] by identifying the likely cause for the variance in energy consumption and comparing variables with data from the historical database.

As per claim 23, Amaratunga teaches "determining whether a value of the energy consumption data exceeds a pre-determined range for the energy consumption data; and validating the energy consumption data if the value exceeds the predetermined range" at Page 7, [0047] by identifying the likely cause for the variance in energy consumption and comparing variables with data from the historical database.

As per claim 27, Amaratunga teaches "determining whether a predetermined event occurs associated with energy consumption data loss" at Page 7, [0047] by identifying the likely cause for the variance in energy consumption and comparing variables with data from the historical database.

Amaratunga does not specifically teach "automatically transmitting energy consumption-information acquired by one of the data collectors to another data collector in response to the occurrence of the pre-determined event".

However, Ehlers teaches data collector is operable to transmit the respective acquired energy consumption information in response to a predetermined event" at col.

9, lines 58-63 where data are provided to data collection function at regular interval.

Furthermore, at col. 9, lines 25-32, Ehlers teaches Multiple input devices can be

supported. The collected data will be normalized in pulse count to units of energy

consumed. It is then passed to one function for short term storage and data considered

of historical importance can be stored in another function for long term storage

As per claim 28, Amaratunga the following:

"A system for remote monitoring and controlling energy consumption of a facility,

comprising: processor" at Fig. 1, element 20 and Page 4, [0030], lines 16-20 where the

processing module of the energy consumption prediction system comprises processor;

"a database coupled to the processor, the database operable to receive and store

energy consumption data associated with the facility" at Page 7, [0048], lines 1-4 where

a historical database is the to collect and store data from meters, devices and sensors

at the energy consumption systems or consumption site;

"an analysis engine executable by the processor, the analysis engine operable to

evaluate the energy consumption" at Page 4, [0029], lines 1-4 where a TEUP (Total

Energy Use Profile) is developed for analyzing and evaluating the energy amounts and

providing other energy use information, and "data and determine energy consumption

efficiency of the system, the analysis engine further operable to determine whether an

operating parameter modification to the system would result in an energy consumption

efficiency increase." at Page 5, [0037], lines 13-20 where amount of energy to produce

pollution is utilized to predict if energy consumption system is operating efficiently and at

Page 7, [0047], lines 24-28 where a feedback control capability is built for attempting to bring the energy consumption system to a more efficient operating state.

Amaratunga does not specifically teach the analysis engine "residing in the memory and executable by the processor" or "a memory unit coupled to the processor" or "plurality of data collectors disposed at the facility, the plurality of data collectors operable to automatically transmit energy consumption data to the processor, the energy consumption data associated with an energy consumption system of the facility".

However, Ehlers teaches a memory unit coupled to the processor at Fig. 1, elements 20-30 and col. 7, lines 1-3 and 16-17 where an energy management system includes processor and memory next to each other, and data stored in the memory is accessed and processed by the processor.

Furthermore, Ehlers teaches multiple input devices can be supported. The collected data will be normalized in pulse count to units of energy consumed. It is then passed to one function for short term storage and data considered of historical importance can be stored in another function for long term storage at col. 9, lines 25-32.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Ehlers' reference into Amaratunga's by implementing multiple data collection and storage functions for providing short and long term data storage separately, and where the functions require processing on the part of the processor, such as environmental condition control, price and energy consumption control, on the memory unit such that they can be processed without invoking disk i/o

and memory loading/swapping because by doing so the processing system would have

performed more efficiently.

As per claim 32, Ehlers further teaches "each of the data collectors is further operable

to store a history of energy consumption data values for a predetermined time period" at

Fig. 4, elements 21 and 22 where historical data storage is coupled with data collection

and storage functions.

As per claim 33, Ehlers further teaches "each of the data collectors is operable to

transmit a predetermined quantity of the energy consumption data values occurring

prior to and after a predetermined event to the processor after the occurrence of the

predetermined event" at col. 5, lines 11-14 by using historical data of energy

consumption to compute energy consumption of one load.

As per claim 34, Ehlers further teaches "each of the data collectors is operable to

determine an average energy consumption data value for a predetermined time interval

and transmit the average energy consumption data value to the processor if the

predetermined event does not occur" at col. 5, lines 11-14 by using historical data of

energy consumption to compute energy consumption of, at least one load.

As per claim 35, Ehlers further teaches "each of the data collectors is operable to

transfer the respective energy consumption data to another data collector upon the

occurrence of a predetermined event" at Fig. 4, elements 21 and 22 where historical

data storage is coupled with data collection and storage functions.

As per claim 37, Amaratunga teaches "a control engine executable by the processor,

the control engine operable to initiate the operating parameter modification of the

energy consumption system" at Page 7, [0047], lines 24-28 where a feedback control

capability is built for attempting to bring the energy consumption system to a more

efficient operating state.

Amaratunga does not specifically teach control engine "residing in the memory and

executable by the processor" or "a memory unit coupled to the processor".

However, Ehlers teaches a memory unit coupled to the processor at Fig. 1, elements

20-30 and col. 7, lines 1-3 and 16-17 where an energy management system includes

processor and memory next to each other, and data stored in the memory is accessed

and processed by the processor.

It would have been obvious to one having ordinary skill in the art at the time of the

applicant's invention was made to combine Ehlers' reference into Amaratunga's by

implementing the functions which require processing on the part of the processor, such

as environmental condition control, price and energy consumption control, on the

memory unit such that they can be processed without invoking disk i/o and memory

loading/swapping because by doing so the processing system would have performed

more efficiently.

Response to Arguments

6. The Applicants' arguments filed on September 7, 2004 have been fully considered

but they are not persuasive, for the Examiner's response, please see discussion below:

a). At Pages 8-10, concerning claims 1 and 15, the Applicant argued that the

Amaratunga and Ehlers references, cited by the Examiner, are directed toward

industrial facility process and building environmental control process, respectively. The

industrial facility system control and HVAC control are substantially different and hence,

a prima facie case of obviousness has not been established because required evidence

of a motivation to combine the references has not been shown.

As to the above argument a), the Examiner respectfully disagrees. Both the

Amaratunga and Ehlers references are directed toward energy management, as clearly

evidenced by the respective tile of the references, "Environmental Condition Control and

Energy Management System and Method" and "Systems and Methods for Making

Prediction of Energy-Consuming Systems or Sites". Both references are dedicated to

energy consumption and process control of the consumption (See the Abstract).

Further, optimal energy consumption is a common object the two references attempted

to achieve.

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the two

references address the same energy consumption and optimization issues where the

Ehlers reference teaches more specifically on the processor and peripheral devices,

including processor, memory and their coupling, while Amaratunga reference teaches

computing system more generically. However, Amaratunga reference appreciates that

those skilled in the art and processing module to implement the data module by using a

variety of separate dedicated, programmable integrated and other electronics circuits

and devices (Page 4, [0030]). As Armaratunga reference further teaches that the data

processing module analyzes and evaluates the energy amount and provides energy use

information (Page 4, [0029]) and the module may also include a software to provide a

total quality management of the systems at the energy consuming site (Page 5, [0040]).

Facing such a heavy processing load, the module must perform all assigned functions

efficiently. As suggested by the reference, peripheral device and software are the

options available for the processing module, it would have been obvious to one having

ordinary skill in the art at the time of the applicant's invention was made to combine

Ehlers' reference into Amaratunga's by implementing the functions which require

processing on the part of the processor, such as environmental condition control, price

and energy consumption control, on the memory unit such that they can be processed

without invoking disk i/o and memory loading/swapping because by doing so the

processing system would have performed more efficiently.

b). At Pages 10-11, concerning claim 15, the Applicant continued to argue that neither

Amaratunga nor Ehlers reference teaches the limitation "determining whether an

operating parameter of an energy consumption system of the facility requires

modification to increase efficiency using the energy consumption and the environmental

data".

As to the above argument b), the Examiner respectfully disagrees. As described

above, both the Amaratunga and Ehlers references are directed toward energy

consumption, energy management and optimal energy consumption. Information or

data related to energy consumption, environment and site(s) are described throughout

the references. As to the above specific limitation, the Examiner specifically cited Page

4, [0029] and Page 7, [0047], lines 24-28 of Amaratunga reference for providing the

teaching. At Page 4, [0029], Amaratunga specifically teaches analysis and evaluation

task of TEUP (Total Energy Use Profile) "provides a current status and operation of the

energy-consuming systems and energy consuming site". Further, TEUP content may be

customized by energy-consumption "predicting" system user. Furthermore, at Page 7,

[0047], lines 24-28 of Amaratunga teaches "Where a feedback capability has been built

into the energy-consumption predicting system, data processing module may take

action on the most likely causes in an attempt to bring the energy-consuming system

toward a more efficient state". Please note the statements linked by keywords or terms

such as predicting, causes, feedback, efficient state, status of the site, etc. **teaches**

determining and predicting whether an energy consumption system of the site requires

modification for feedback to bring the system to operate in a more efficient state by

using the status and operation of the system and site. Based on the above

consideration, the Examiner asserts **the Amaratunga reference fully teaches the**

above specific limitation.

c). At Pages 11-12, concerning claims 5 and 18, the Applicant alleged that neither

Amaratunga nor Ehlers reference teaches the limitation.

As to the above argument c), the Examiner respectfully disagrees. The Examiner

applies the same response to argument item b) as previously described, the Examiner's

cited paragraphs (Amaratunga: Page 7, [0047], lines 24-28 and Page 6, [0042]) does

specifically teach the specific limitation of "the environmental data comprises

environmental forecast information, and wherein the analysis engine is operable to

determine whether operating parameter modification is required for the energy

consumption system using the environmental forecast information".

d). At Page 12, concerning claims 7 and 20, the Applicant alleged that Amaratunga

reference does not teach the limitation of "validate energy consumption data". The

Applicant further alleged the Examiner failed to establish a prima facie case of

obviousness.

As to the above argument d), the Examiner respectfully disagrees. In the Office

Action, the Examiner explained the cited paragraph in the Amaratunga reference

teaches "determining if the energy consumption system is operating efficiently and

energy consumption amount is consistent with what benchmarked". As the Examiner

unambiguously stated, the reference strongly suggests and teaches validation of energy

consumption in order to **determine if the energy consumption system is operating**

efficiently and energy consumption amount is consistent with what

benchmarked. As for establishing the prima facie case for obviousness, the Examiner

applies the same argument as previously described in responding to argument a).

e). At Page 12, concerning claims 10, 24 and 31, the Applicant continued to allege that

Amaratunga reference does not teach the limitation of changing rate of data collection.

The Applicant further continued to allege that the Examiner failed to establish a prima

facie case of obviousness.

As to the above argument e), the Examiner respectfully disagrees. As described

previously, the Amaratunga reference teaches, at Page 7, [0047], lines 24-28, "a

feedback capability has been built into the energy-consumption predicting system, data

processing module may take action on the most likely causes in an attempt to bring the

energy-consuming system toward a more efficient state". Please note the feedback

capability for attempting to bring the energy-consuming system toward a more efficient

state strongly suggests the system operating and responding transiently, including

responding promptly in according to the system status. Based on the consideration, the

Examiner asserted the system does teach collecting data at a rate other than a fixed

one. As for establishing the prima facie case for obviousness, the Examiner applies the

same argument as previously described in responding to argument a).

f). At Page 13, concerning claims 13, 26 and 30, the Applicant continued to allege that

Amaratunga reference teaches data storage, but not the limitation of data collection.

As to the above argument f), the Examiner respectfully disagrees. As described in

Argument item b)'s response, at Page 4, [0029], the Amaratunga specifically teaches

analysis and evaluation task of TEUP (Total Energy Use Profile) "provides a current status and operation of the energy-consuming systems and energy consuming site". Further, TEUP content may be customized by energy-consumption "predicting" system user. Furthermore, at Page 7, [0047], lines 24-28 of Amaratunga teaches "Where a feedback capability has been built into the energy-consumption predicting system, data processing module may take action on the most likely causes in an attempt to bring the energy-consuming system toward a more efficient state". Based on the above statements, the data is evidently involved in different phases of data analysis, evaluation, feedback and control. For data to be involved in such many stages, the data must be collected and then stored. The Examiner thus fairly asserts the Amratunga reference does teach data collection.

7. In light of the foregoing arguments, the 35 U.S.C. 103 rejection of Claims 1-37 is hereby sustained.

8. The prior art made of record

    A. U.S. Publication   2003/0061091

    B. U.S. Patent   6,216,956

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

    C. U.S. Patent   5,651,264

    U.   www.knowledgeprocesssoftware.com/newweb/CounterDet, Data Mining to Improve Energy Efficiency in Buildings, September 2001

9. In light of the forgoing arguments, the 35 U.S.C 103 rejection for Claims 1-37 is hereby sustained.

Conclusions

10. THIS ACTION IS MADE FINAL.

The Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is 571-272-3574 for faster service.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuen S Lu whose telephone number is 571-272-4114. The examiner can normally be reached on 8 AM to 5 PM, Monday through Friday.

If at tempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Breene can be reached on 571-272-4107. The fax phone number for

the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

Kuen S. Lu

Patent Examiner

February 3, 2005

Luke Wassum

Primary Examiner

February 3, 2005